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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,531	07/15/2004	James Claude Williams JR.	3834-001-27 PROV	3722

7590 07/21/2006

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EXAMINER

FRECH, KARL D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No.	Applicant(s)	
	10/731,531	WILLIAMS ET AL.	
	Examiner	Art Unit	
	Karl D. Frech	2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 5/12/06 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☒ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable

Telephone No.

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1. Although applicant's amendment is considered non-responsive and applicant is given 30 days to respond to this communication, the examiner has reviewed the applicant's amendments and remarks presented by fax 5/12/06. As this amendment is considered non-responsive, the rejection of the claims is not repeated herein. Also, the remarks stated below are merely to be taken as a guide as they are not part of an official rejection.

2. Regarding point 1: the examiner acknowledges that applicant has amended claims 1 and 2 to remove certain terminology that was previously objected to in the examiner's prior action. Regarding the "EZ NET" and "SmartKids Homework Links", applicant is informed that it is not only whether or not the claims are currently clear, but whether or not the claims may become unclear in the future. If trademarks or tradenames expire, the claims may become unclear at that time.

3. Regarding points 2 and 3: the examiner understands that applicant's invention does not lay claim to the smart card technology itself, but rather to the method of use of smart cards and computer systems.

4. Regarding point 4: applicant argues that DeFabio and Collins do not encompass the current invention. The examiner respectfully disagrees. DeFabio and Collins disclose memorabilia collection method. Collins discloses IC technology to collect information. The combination of the two, in conjunction with that knowledge which is readily available to the person of ordinary skill in the art encompasses the claims as currently recited.

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Applicant argues that to combine the references it is like saying Google cannot query on key words because Yahoo operates on the same premise. However, applicant is reminded that if Yahoo owned the rights to key word searches, Google could not key word search without infringing. Further, neither Google nor Yahoo own the rights, because they are old and in public use, therefore both can freely use them. Also, applicant argues that combining DeFabio and Collins would be like saying that a grain company couldn't put cereal in a box because you can get pasta in a box. In response, it depends on who owns the rights to the box. If the pasta company owned the rights to the box, then the grain company could not put cereal in the box. The grain company could enter talks with the pasta company for the use of the box, but that would be a licensing issue not in the purview of prosecution of an application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D. Frech whose telephone number is (571) 272-2390. The examiner can normally be reached on maxi-flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Karl D Frech
Primary Examiner
Art Unit 2876
